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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|--|-------------|-------------------------|----------------------------|------------------------|
| 10/675,501   | 09/30/2003  | Ronald Vaiden Carpenter | MAXTEL 1                   | 6048                   |
| 31704  | 7590        | 01/28/2008              |                            |                        |
| JOHN H. THOMAS, P.C.<br>536 GRANITE AVENUE<br>RICHMOND, VA 23226 |             |                         | EXAMINER<br>PEACHES, RANDY |                        |
|  |             |                         | ART UNIT<br>2617           | PAPER NUMBER           |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/675,501

Applicant(s)

CARPENTER ET AL.

Examiner

Randy Peaches

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. ***Claims 1, 3-9*** are rejected under 35 U.S.C. 103(a) as being unpatentable by Marsh et al. (US Patent 6,574,465) in view of Frieman et al. (US Pub. No. 2002/0082991).

Regarding ***claim 1***, Marsh et al. teaches a method for managing telecommunication bills for a subscriber, the method comprising the steps of:

- conducting an analysis of a subscriber's telecommunication predicted usage requirements and historical usage (col. 2, line 5 to 22 and col. 9 lines 31-53);
- creating a baseline report to correspond to the subscriber's requirements (col. 2, line 5 to 22, the baseline report comprising creating a usage history table and a call detail table from the actual monthly bills);
- selecting at least one a telecommunication carrier plan to conform to the baseline report (col. 9 lines 31-53, col. 15, line 55 to col. 16, line 9);

- receiving a subsequent bill from the carrier corresponding to the subscriber's actual telecommunication usage and containing an actual billed amount (col. 2, line 5 to 22);
- comparing the actual usage to the predicted usage requirements to identify differences between the actual usage and the predicted usage requirements and to identify instances in which such differences result in additional or unexpected charges (col. 7, line 66 to col. 8, line 21, Figure 7, col. 12 lines 8-65, col. 18, line 23 to 61)
- identifying exceptions in the bill as compared to the baseline report (Table 8, identifying the cost and efficiency of Mo 6 against the baseline report of Mo 1 through Mo 5); and
- requesting billing credit from the carrier in the amount of the identified exceptions (Table 8 shows inherently upon request from the billing system, carriers provide cost and charges for different plans as oppose to different usage for a particular user). creating an actual report for the subscriber (page 2, line 5 to 22).

However, Marsh et al. does not expressly teach wherein exceptions are billing errors or auditing billing errors. In an analogous art, Frieman et al. teaches comparing telecommunication bill against a pre-determined indices to identify billing errors and generate a request and billing disputes upon detections of billing errors and further create an actual relevant report for users (see Abstract, paragraph [0004]-[0005], [0059]).

Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify Marsh et al. to include exceptions "are billing errors or auditing billing errors such as taught by Frieman et al. in order to allow an automated reconciliation, payment and accounting system for use by a large scale telecommunications consumers for auditing and managing bills from their communications vendors.

However, Marsh et al. does not expressly teach wherein identify differences between the actual usage and the predicted usage requirements and to identify instances in which such differences result in additional or unexpected charges; determining an anticipated billed amount based on the actual usage.

Sick et al. teaches in the abstract wherein an analysis of time of usage patterns modeling of predicted and actual usage with respect to a chosen plan, is used to determine billing. See Abstract.

Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the combination Marsh et al. and Frieman et al. to further include Sick et al. to clearly incorporate the actual and predicted usage reports to assist in planning and billing of a service.

Regarding **claim 3**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 1**, the combination further teaches a method comprising:

- requesting billing credit from the carrier in the amount of the identified errors; reviewing a further subsequent bill from following up with the carrier to insure that credit was posted to the subscriber account. (Figure 2, element 120; Figure 5; col. 6, line 58 to col. 6, line 11).

Regarding **claim 4**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 1**, the combination (Marsh et al.) further teaches a method, wherein the method is performed on a periodic basis corresponding to the generation of bills by the carrier (col.

Regarding **claim 5**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 1**, the combination further teaches a method comprising:

- identifying a new telecommunication carrier plan(Marsh et al., col. 2, line 5 to 22; col. 15, line 55 to col. 16, line 9);
- comparing both the selected carrier plan and the new carrier plan to the predicted usage requirements, the historical usage, and the actual usage baseline report(Marsh et al., col. 15, line 55 to col. 16, line 9);
- deciding whether the new carrier plan better conforms to the subscriber's predicted usage requirements, historical usage, and actual usage(Marsh et al., col. 2, line 5 to 22).

Regarding **claim 6**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 1**, the combination further teaches wherein the subscriber comprises a plurality of telecommunication users (Frieman et al. paragraph [0001]).

Regarding **claim 7**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 1**, the combination teaches a method, wherein the step of selecting a telecommunication carrier plan to correspond to the baseline report comprises selecting a plurality of telecommunication carrier plans to correspond to the baseline report (Marsh et al., col. 15, line 55 to col. 16, line 9).

Regarding **claim 8**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 7**, the combination further teaches a method, wherein the step of selecting a telecommunication carrier plan to correspond to the predicted usage requirements and the historical usage baseline report comprises selecting a plurality of telecommunication carrier plans to correspond to the predicted usage requirements and the historical usage baseline report. (Marsh et al, col. 15, line 55 to col. 16, line 9).

Regarding **claim 9**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 1**, the combination further teaches a method, wherein the analysis of a subscriber's telecommunication usage requirements includes

identifying and suggesting a plurality of carrier options and plans (Marsh et al., col. 15, line 55, to col. 16, line 9).

Regarding **claim 10**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 6**, the combination further teaches wherein the analysis of a subscriber's telecommunication predicted usage requirements and historical usage includes identifying and suggesting a plurality of carrier options and plans.. See Sick et al. Abstract.

Regarding **claim 11**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 10**, the combination further discloses wherein the analysis further includes calling patterns of each user, coverage requirements for each user, and feature needs of each user. See Sick et al. Abstract.

Regarding **claim 12**, as the combination of Marsh et al, Frieman et al and Sick et al. are made, the combination according to **claim 10**, the combination further discloses wherein the analysis further includes organizational departmentalization for each user. See Sick et al. paragraphs {0127 and 0129}.

### ***Response to Arguments***

Applicant's arguments with respect to **claims 1 and 3-12** have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Randy Peaches

RP

  
**JOSEPH FEILD**  
**SUPERVISORY PATENT EXAMINER**